

BEFORE THE
Federal Communications Commission
WASHINGTON, D. C.

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In the Matter of)
)
Advanced Television Systems)
and Their Impact Upon the)
Existing Television Broadcast)
Service)
)
Sixth Further Notice of Proposed)
Rule Making)

MM Docket No. 87-268

TO: The Commission

REPLY COMMENTS OF HSN, INC.

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HSN, Inc. (formerly Silver King Communications, Inc.), 1/ by its attorneys, hereby submits its Reply Comments to the Commission's Sixth Further Notice of Proposed Rule Making, FCC 96-317 (released Aug. 14, 1996) ("Sixth NPRM") in the above-captioned proceeding.

HSN, Inc. owns four VHF and 12 UHF full-power television stations -- including *eight* stations in the 60-69 band -- and two VHF satellite stations and 28 LPTV stations. The programming on these stations (other than the VHF stations) consists primarily of a home shopping format at this time. However, HSN, Inc. is planning the conversion of programming on its stations to include entertainment, news, information, sports, and children's programming. HSN, Inc. expects that this

1/ On December 19, 1996, concurrent with the partial merger of Home Shopping Network, Inc. into Silver King Communications, Inc., that entity changed its name to HSN, Inc.

TABLE OF CONTENTS

| | <u>Page</u> |
|--|-------------|
| SUMMARY | i |
| I. The Commission Should Not Attempt to Recover Channels 60-69 Until The Transition To Digital Television Is Complete. | 3 |
| II. The Comments Demonstrate That The Proposed DTV Channel Assignment For HSN, Inc.'s Vineland, New Jersey Station Would Impair HSN, Inc.'s Ability To Compete In The Philadelphia DTV Marketplace..... | 8 |
| III. The Comments Show That the Commission Should Maintain Flexibility Toward the Modification and Maximization Of NTSC and DTV Facilities..... | 12 |
| IV. The Comments Emphasize The Importance Of Preserving LPTV And TV Translator Services During And After The Transition To DTV Operations. | 15 |
| V. The Commission Must Take Additional Steps To Assure Achievement Of The Service Replication Objective..... | 18 |
| VI. Conclusion..... | 20 |

SUMMARY

HSN, Inc. (formerly Silver King Communications, Inc.), the owner of 12 full-power UHF television stations -- of which *eight* are located between Channels 60 and 69 -- and 2 LPTV stations, filed Comments in this proceeding in support of the overarching principles advocated by the "Broadcasters" and to emphasize four additional points. The comments filed in this proceeding provide strong support for HSN, Inc.'s position on these critical issues.

First, the comments demonstrate that the Commission's recovery of Channels 60-69 or any other VHF or UHF spectrum prior to completion of transition to DTV operations would be premature. Second, the comments show that likely interference with public safety communications services resulting from the Commission's proposed assignment of DTV Channel 21 to HSN, Inc.'s Station WHSP-TV in Vineland, NJ would hamstring WHSP-TV's ability to operate and effectively compete. Third, the comments persuasively explain the importance of administrative flexibility for modifying and maximizing both NTSC and DTV facilities, and propose several effective procedures to accomplish these goals. Fourth, the comments demonstrate the need to protect LPTV and TV translator services throughout and subsequent to the DTV transition process, and set forth procedures that will ensure the preservation of these services. In addition, the Commission needs to take further action to replicate existing NTSC coverage.

new program service will occupy more than half of the program schedule on its stations within the next few years.

In an effort to promote a digital television ("DTV") table of allotments and assignments that does not hinder the conversion of its programming format, HSN, Inc. was a signatory to the Comments filed by the "Broadcasters," a diverse group of television station owners and networks. The Broadcasters argued, among other things, that the Commission should reject the "core spectrum" approach and instead use the entire VHF and UHF spectrum for the assignment of DTV channels.

HSN, Inc. also filed individual Comments to emphasize several points more specific to its own operations and proposed DTV assignments. In its Comments, HSN, Inc. demonstrated that the FCC's presently proposed DTV Table would undermine the ability of HSN, Inc. to compete in the NTSC and DTV marketplaces. Consequently, the proposed DTV Table would sabotage HSN, Inc.'s efforts to convert its home shopping programming format. The Commission's most damaging proposal -- the early recovery of Channels 60-69 -- would uniquely place HSN, Inc. (which owns more full-power stations in this band than any other broadcast group) in the hinterlands of the television band without adequate safeguards. It also would thwart HSN, Inc.'s continued provision of LPTV service to smaller markets. Moreover, the Commission's proposal to assign HSN, Inc. Station WHSP-TV in Vineland, New Jersey, to a DTV channel adjacent to a crowded channel reserved for public safety communications services would likely result in interference and could prevent WHSP-TV from initiating DTV operations.

Finally, the proposal to condition the grant of any modification applications approved after July 25, 1996, on the DTV proceeding would unfairly and unnecessarily prevent HSN, Inc. from improving its service to the public as proposed in applications filed prior to this date.

The many comments filed by full power and low power television station owners in this proceeding overwhelmingly support HSN, Inc.'s arguments that (1) the Commission should not recover any VHF or UHF spectrum, including Channels 60-69, until the transition to DTV operations is complete; (2) the Commission should assign WHSP-TV to a DTV channel which is not adjacent to land mobile operations; (3) the Commission should adopt a flexible approach toward the modification of NTSC and DTV facilities; and (4) the Commission should take additional steps to preserve LPTV services.

I. The Commission Should Not Attempt to Recover Channels 60-69 Until The Transition To Digital Television Is Complete.

HSN, Inc. demonstrated in its Comments that the Commission's proposal to recover Channels 60-69 immediately would unfairly and uniquely undermine HSN, Inc.'s ability to compete in light of its unprecedented *eight* major market NTSC channels assignments in the 60-69 band. 2/ HSN, Inc. explained

2/ HSN, Inc. owns the following eight stations in the 60-69 band:

WEHS-TV, Channel 60, Aurora, Illinois
KHSH-TV, Channel 67, Alvin, Texas
WHSB-TV, Channel 66, Marlborough, Massachusetts
WHSE-TV, Channel 68, Newark, New Jersey
WHSI-TV, Channel 67, Smithtown, New York
WQHS-TV, Channel 61, Cleveland, Ohio

that the proposed recovery of Channels 60-69 would not serve the public interest for the following reasons: (1) Channels 60-69 are needed for a successful transition to digital television; (2) the introduction of non-broadcast users on Channels 60-69 would result in interference to the broadcasters that remain in this portion of the spectrum and would prevent broadcasters on this band from maximizing or modifying their facilities; and (3) the proposed early recovery of these channels would give manufacturers the incentive to exclude Channels 60-69 from new television sets while NTSC stations are still operating on this portion of the spectrum. Thus, HSN, Inc. urged the Commission to delay the recovery of any spectrum until after the transition to DTV is complete, when it can better assess the amount of spectrum needed for DTV operations. 3/

The multitude of broadcasters participating in this proceeding confirmed that Channels 60-69 are essential for the successful transition to DTV and for the continued diversity of programming available to the public. The Broadcasters argued that the Commission's core channel approach, which includes the early recovery of Channels 60-69, would severely limit the flexibility needed by licensees to make the transition to DTV and to make necessary modifications in response to real world circumstances. 4/ Full power and low power television

WHSP-TV, Channel 65, Vineland, New Jersey
WYHS-TV, Channel 69, Hollywood, Florida

3/ Comments of Silver King Communications, Inc. at 4-6.

4/ See Comments of the Broadcasters at 34-40.

stations and industry organizations participating in this proceeding also argued that recovery of spectrum at this time would result in a significant loss of broadcast service, with a resulting decrease in the diversity of programming available to the public. 5/ Moreover, the Broadcasters emphasized that the immediate recovery of Channels 60-69 would yield few benefits. The early auction of the few available segments between Channels 60 and 69 would earn far less than a later auction of contiguous spectrum after the relocation of broadcasters in this band. 6/

Of course, the hopeful occupants of Channels 60-69 were supportive of the proposed immediate recovery of this band of the spectrum. 7/ The self-serving comments filed by these land mobile manufacturers and operators confirm the worst fears of HSN, Inc. and other broadcasters. First, it is clear from the comments filed in this proceeding that land mobile manufacturers and operators will not be satisfied for long with Channels 60-69, or even with Channels 2-6 and Channels 52-59. The City of Mesa, Arizona, suggested that the Commission reallocate VHF Channels 7-9 to land mobile users as well. 8/ Ericsson Inc. took the

5/ See, e.g., Comments of the Broadcasters at 25-33; Comments of Community Broadcasters Association at 4; Comments of the National Translator Association at 8; Comments of Paging Systems, Inc. at 1-2; Comments of GEP, Inc. at 1-2; Comments of KY New Era, Inc. at 4-5.

6/ Comments of the Broadcasters at 40-42.

7/ See, e.g., Comments of Ericsson Inc. at 3-6; Comments of UTC, The Telecommunications Association at 5-7; Comments of Land Mobile Communications Council at 6-9; Comments of Major Cities Chiefs at 2; Comments of Motorola at 7-12.

8/ See Comments of City of Mesa, Arizona at 2.

City of Mesa's suggestion even further, urging the Commission to pack broadcasters into a smaller core consisting of channels 20-52. 9/

Second, the comments confirm that the use of Channels 60-69 by both broadcasters and land mobile operators during the transition to DTV would likely result in additional interference and decreased flexibility for the broadcasters assigned to this spectrum. For example, Motorola suggested that the Commission relax the interference criteria that are currently applicable to television-land mobile sharing in the 14-20 band for sharing of the 60-69 spectrum. 10/ Furthermore, Motorola and the Land Mobile Communications Council urged the Commission to accelerate the departure of broadcasters from Channels 60-69, presumably at a quicker rate than the required time for the transition to DTV. 11/ The Land Mobile Communications Council went so far as to suggest that the Commission force broadcasters assigned to Channels 60-69 to retire their NTSC licenses and, in place of NTSC broadcasts, pay cable operators for signal carriage. 12/ Among many other failings, this outlandish proposal ignores the many viewers who lack cable service and would severely impair the ability of the affected broadcasters/programmers to compete with other broadcasters. Given these opposing interests, the early recovery

9/ See Comments of Ericsson Inc. at 7.

10/ Comments of Motorola at 13-15.

11/ Comments of Motorola at 12; Comments of the Land Mobile Communications Council at 11.

12/ Comments of the Land Mobile Communications Council at 12.

of Channels 60-69 would make it very difficult for broadcasters assigned to this portion of the spectrum to operate without interference or to maximize or modify their facilities. It is indeed ironic that having been placed at a competitive disadvantage for years with high UHF channel assignments, broadcasters such as HSN, Inc. would now be forced to endure far greater adverse impact than others -- all without any meaningful public interest benefit.

Nevertheless, if the Commission should unwisely decide to recover Channels 60-69 before the transition to DTV is complete, numerous comments filed in this proceeding attest to the critical importance of implementing safeguards that would lessen the devastating impact on broadcasters such as HSN, Inc., as HSN, Inc. suggested in its Comments. 13/ Such safeguards should include the following:

- Any grant of spectrum to new users should be conditioned on the immediate termination of any interference to broadcasters. The current criteria for television-land mobile interference should not be relaxed, as Motorola has suggested. 14/ The burden of proof concerning levels of interference should rest entirely with the non-broadcast user.
- The presence of non-broadcast users on Channels 60-69 must not impair broadcasters' ability to maximize or modify their facilities on these channels. 15/

13/ See Comments of Silver King Communications, Inc. at 6-7.

14/ Comments of Motorola at 13-15.

15/ See Comments of the Broadcasters at 38-40.

- Since broadcasters with NTSC channels in the Channel 60-69 band would not be able to return to their NTSC channel for DTV operations, 16/ the new users of the spectrum should be required to compensate broadcasters for the cost of relocating to DTV channels in the core spectrum. 17/
- The Commission should require television manufacturers to continue building sets which include Channels 60-69 until the very last broadcaster departs from this portion of the spectrum. The National Translator Association pointed out that when the Commission recovered Channels 70-83, a former home for TV translators, existing translators were permitted to continue operating in the 70-83 band until such operation conflicted with a new user. "However, in short order the TV set manufacturers eliminated channels 70-83 from their new models and accessories were no longer made to cover the channels above 69; thus the use of channels 70-83 soon became untenable." 18/ This must not be permitted to occur again following the recovery of Channels 60-69.

II. The Comments Demonstrate That The Proposed DTV Channel Assignment For HSN, Inc.'s Vineland, New Jersey Station Would Impair HSN, Inc.'s Ability To Compete In The Philadelphia DTV Marketplace.

As HSN, Inc. demonstrated in its initial Comments, the proposed assignment of HSN, Inc. Station WHSP-TV, Channel 65, Vineland, New Jersey, to DTV Channel 21 is likely to result in interference with the signals of the public safety radio operations on Channel 20. This in turn would dramatically affect HSN, Inc.'s ability to compete with other stations in the market. 19/

16/ See Comments of the Broadcasters at 24.

17/ See Comments of Pulitzer Broadcasting Company at 5; Comments of Blackstar Communications, Inc. at 4.

18/ Comments of National Translator Association at 4; see also Comments of Non-Commercial Television Stations, KUED and KULC at 7.

19/ See Comments of Silver King Communications, Inc. at 7-11.

First, the proposed assignment is one of nine cases where the DTV allotments would fail to meet the Commission's proposed adjacent-channel spacing requirement of 176 km (110 miles) for DTV and land mobile operations. 20/ The proposed DTV assignment is particularly deficient due to the potential for the use of public safety radio services anywhere in WHSP-TV's market, creating the possibility of *zero* spacing. Second, as the Commission recognizes, the operation of over 600 land mobile licensees on Channel 20 has severely crowded the spectrum, 21/ making the possibility of interference a special concern. Third, the experiences of stations in the Washington, D.C. and Denver, Colorado markets show that the adjacency of WHSP-TV's DTV channel to land mobile operators would almost inevitably result in interference that would be difficult, if not impossible, to remedy. 22/ Any complaints of interference with these public safety operations -- whether actual or perceived -- would be taken very seriously and will likely disrupt broadcast operations in light of the potential life or death consequences of such interference.

20/ See 47 C.F.R. § 2.106, note NG66; Sixth NPRM at n.77.

21/ Sixth NPRM at ¶ 77 & n.78.

22/ In Washington, D.C., intermodulation problems in the public safety communications equipment on an adjacent channel to WTMW(TV), Channel 14, Arlington, Virginia, have delayed the operation of the station at its authorized power. The station is currently permitted to operate at no higher than 50% of its authorized power. In Denver, intermodulation problems resulting from the high concentration of land mobile stations near the authorized transmitter site of KTVJ(TV), Channel 14, Boulder, Colorado, delayed construction of the station for years. The station, having finally been constructed, is currently operating at 10% of its authorized power pursuant to an agreement between the station and the City of Denver. See Comments of Silver King Communications, Inc. at 9-10.

The comments filed with regard to the proposed short spacing between DTV channels and land mobile channels in these nine urbanized areas strongly support HSN, Inc.'s position. The Commission's land mobile sharing proposal unleashed an overwhelmingly negative reaction from affected broadcasters, land mobile operators, manufacturers, and state government officials. 23/ Land mobile operators around the country complained that the Commission's decision to assign DTV channels adjacent to land mobile operations would create interference that would have a severe effect on public safety radio operations in the affected areas. 24/ They further argued that such interference could render useless their significant investments in public safety communications systems, which run into the millions of dollars. 25/

Nowhere was the opposition to this adjacent-channel short-spacing fiercer than in the Philadelphia/South Jersey area. Well over 30 government agencies, state and local officials, police departments and fire and rescue squads in the Philadelphia metropolitan area voiced their disagreement with the Commission's plan to assign WHSP-TV to DTV Channel 21. These parties argued

23/ See, e.g., Comments of Chris Craft/United Group at 3-6; Comments of Telemundo Group, Inc. at 3-9; Comments of Ericsson Inc. at 8-10; Comments of the International Association of Chiefs of Police at 3.

24/ See, e.g., Comments of Northern California Chapter of the Association of Public/Safety Officials, Inc.; Comments of Carlstadt Police Department (Carlstadt, New Jersey); Comments of the City of Mesa, Arizona.

25/ See, e.g., Comments of the New York Metropolitan Advisory Committee at 11. For example, the police chief of one municipality reported that the installation of its radio system costs \$2,000,000. Comments of Sayreville Borough, New Jersey.

that the adjacent-channel DTV operations would interfere with local public safety communications systems, which could then jeopardize the ability of public safety services to protect lives and property. 26/ It is clear that this vociferous group would make it virtually impossible for HSN, Inc. to initiate DTV operations on Channel 21.

Where the potential for interference between DTV and land mobile operations exists, many public safety organizations and municipalities urge the Commission to impose burdensome requirements on broadcasters, such as the use of filtering or other equipment, to prevent disruption to land mobile operations. 27/ However, as the Land Mobile Communications Council ("LMCC") pointed out, the Commission's stated belief "that there are engineering solutions available to handle any adjacent channel interference concerns between land mobile and DTV" is lacking in detail and questionable on technical grounds. 28/ Chris Craft/United Group, Inc. further explained that "there are no known methods for adequate remediation of such interference at a manageable cost through filtering or similar techniques without substantially limiting the coverage of the interfering broadcast

26/ See, e.g., Comments of Police Department, Moorestown, New Jersey at 2; Comments of Washington Township Board of Fire Commissioners, Washington Township, New Jersey at 1; Comments of Pitman Police Department, Pitman, New Jersey at 1; Comments of the Borough of Sayreville Police Department, Sayreville, New Jersey at 2; Comments of Township of East Brunswick, New Jersey at 2; Comments of Uwchlan Township, New Jersey at 2.

27/ See Comments of New York Police Department, New York, New York at 8.

28/ Comments of LMCC at 14 (quoting Sixth NPRM at ¶ 93); see also Comments of Motorola, Inc. at 13.

station.” 29/ WMTW in the Washington, D.C., market is a prime example of the inability to remediate such interference without substantial delays or reductions in service despite use of the best filtering and engineering solutions available. 30/

Given the likelihood of interference between WHSP-TV’s DTV channel and the extremely active adjacent-channel public safety communications systems in the area, together with the difficulty of resolving such interference, it is imperative that the Commission assign WHSP-TV a viable DTV channel. This resolution would satisfy the interests of both HSN, Inc. and the land mobile operators in the Philadelphia market. If the Commission does not resolve this problem, the public interest will be adversely affected by unfairly hamstringing HSN, Inc.’s ability to compete and by creating interference to active public safety communications systems in the area. The comments unquestionably confirm that the proposed allocation necessarily will result in one or both of these results.

III. The Comments Show That the Commission Should Maintain Flexibility Toward the Modification and Maximization Of NTSC and DTV Facilities.

In its Comments, HSN, Inc. urged the Commission to establish flexible procedures with respect to the modification and maximization of both NTSC and DTV facilities. 31/ The flexible approach suggested by HSN, Inc. -- and many

29/ Comments of Chris-Craft/United Group at 4.

30/ See supra note 22.

31/ Comments of Silver King Communications, Inc. at 13-17.

others -- is essential for the successful conversion of HSN, Inc.'s programming format and the ability of HSN, Inc. to compete in the DTV and video marketplace.

As a first step toward flexibility, the Commission should heed the many commenters who have urged the Commission *not* to condition all modifications granted after July 25, 1996, on the final DTV Table adopted by the Commission. 32/ Rather, the Commission only should impose such a condition where the modification application was filed *after* adoption of the Sixth NPRM, when broadcasters were first put on notice that the Commission would freeze such applications. As Pulitzer Broadcasting Company explained, the Commission gave no prior notice that it would retroactively impose such a condition, and in fact previously declined to do so. Many broadcasters, including HSN, Inc., relied upon the Commission's earlier decision not to impose a freeze on applications when preparing and filing their modification applications. 33/ For example, HSN, Inc. filed ten modification applications prior to July 25, 1996, in an effort to improve its facilities and in reliance on the lack of a freeze. 34/ It would be grossly unfair and

32/ See, e.g., Comments of Silver King Communications, Inc. at 14-15; Comments of Lin Television, *et al.* at 5-10; Comments of Pulitzer Broadcasting Company at 7-9; Comments of Meredith Corporation at 14-15; Comments of Ramar Communications, Inc. at 2-3; Comments of Univision Communications, Inc. at 3-5; Comments of Valley Channel 48, Inc. at 2-3.

33/ See, e.g., Comments of Pulitzer Broadcasting Company at 7-8; *see also* Comments of Lin Television *et al.* at 7-9 (arguing that the proposal deprives broadcasters of fair notice).

34/ See FCC File Nos. BPCT-960708KF-KG; BPCT-960709KE, KH-KL; BPCT-960710KG; BPCT-960716KI-KK.

unsustainable to impose a retroactive condition on HSN, Inc. and other broadcasters who sought to improve their facilities before the Commission announced its new policy. Moreover, the Commission could accomplish the same goals by conditioning only those applications filed after the announcement of the Commission's new policy.

Second, HSN, Inc. agrees with Lin Television that the Commission should incorporate those modifications requested prior to adoption of the Sixth NPRM into the NTSC database, provided the modifications are implemented in a timely fashion. ^{35/} The FCC's DTV Table should then replicate the service areas of these stations as modified. As noted above, this is the fairest approach to those broadcasters who filed applications to improve their facilities before announcement of the Commission's new policy in the Sixth NPRM. In addition, this will enable stations to provide improved DTV signals that will better serve the public interest.

Third, the comments confirm that the Commission should permit stations to maximize their DTV facilities, provided such maximization is consistent with other NTSC and DTV assignments. ^{36/} As the Broadcasters explained,

^{35/} See Comments of Silver King Communications, Inc. at 14-15; Comments of Lin Television Corporation et al. at 1.

^{36/} See Comments of the Broadcasters at 49-52; Comments of Dan Nungesser, Chief Engineer, WSSE, Erie, Pennsylvania, et al. at 2; Comments of Sarkes Tarzian, Inc. at 2; Comments of the Jet Broadcasting Co., Inc. at 2; Comments of Malrite Communications Group, Inc. Engineering Statement at 7-8. As Silver King emphasized in its Comments, stations operating in a portion of the spectrum that has been recovered by the Commission should be able to maximize their facilities without regard to any non-broadcast users of the spectrum. Comments of Silver King Communications, Inc. at 15.

smaller stations should have the opportunity to expand their DTV coverage areas up to the largest station in the market, as long as they do not create substantial new interference to other broadcasters. 37/ This will improve the service available to the public and increase the ability of smaller stations to compete in the DTV marketplace.

IV. The Comments Emphasize The Importance Of Preserving LPTV And TV Translator Services During And After The Transition To DTV Operations.

In its initial Comments, HSN, Inc. urged the Commission to reject the core spectrum approach, modify its LPTV interference standards, and implement procedures to facilitate the relocation of displaced LPTV stations in an effort to preserve the LPTV service. The multitude of comments filed by LPTV operators attest to the importance of LPTV services and the need to adopt measures that will preserve the LPTV service during and after the transition to DTV.

As HSN, Inc. argued in its Comments, LPTV stations have dramatically increased the diversity of programming available to the public. For example, HSN, Inc. has used its LPTV stations to serve smaller markets that have a limited number of full-power television stations. Without LPTV stations, these markets would not have access to HSN, Inc.'s programming. 38/ As many LPTV station owners and audiences demonstrated in their comments, many rural

37/ Comments of Broadcasters at 51-52.

38/ See Comments of Silver King Communications, Inc. at 17.

residents of this country would have no access to free televised news, information and entertainment without LPTVs and TV Translators. 39/ Moreover, LPTV stations are often the only sources of minority-oriented or foreign-language programming available to urban viewers. 40/ In addition, they often serve as a point of entry into the broadcasting business for minorities. The Community Broadcasters Association reports that the LPTV service has a higher percentage of minority owners than any other broadcast service. 41/ Given the importance of the LPTV service in reaching some of the Commission's foremost goals, the Commission should take all possible steps to protect LPTV services during and after the transition to DTV.

As noted in HSN, Inc.'s Comments, the best way to preserve the LPTV service is to reject the core spectrum approach and postpone the recovery of any VHF or UHF spectrum until after the transition to DTV is complete. Following the transition to DTV, the Commission will be in a better position to assess the amount of spectrum needed for DTV and LPTV operations. 42/ This position was uniformly

39/ See, e.g., Comments of the Community Broadcasters Association at 1, Comments of the National Translator Association at 1-2; Comments of Non-Commercial Television Stations, KUED and KULC at 4; Comments of Citizens TV, Inc. at 1; Comments of Humboldt County, Nevada at 1-4.

40/ See, e.g., Comments of Telemundo Group, Inc. at 2, 9; Comments of Airwaves, Inc. at 1; Comments of Weigel Broadcasting at 3-5; Comments of KM Communications, Inc. at 8; Comments of Yoneide Dinzey at 2 n.1; Comments of Raoul Lowery Contreras at 1-2; Comments of Univision Communications, Inc. at 6-7.

41/ Comments of the Community Broadcasters Association at 1.

42/ Comments of Silver King Communications, Inc. at 18.

supported by the LPTV operators and industry associations participating in this proceeding. 43/ The Broadcasters pointed out in their comments that adoption of their proposed DTV table of allotments, which uses the entire VHF and UHF spectrum, would result in the displacement of 63% fewer translator and LPTV stations than the FCC's proposed DTV table. 44/ The Broadcasters' proposed DTV table also would create more room for the relocation of the smaller number of LPTV stations that are still displaced by DTV channels.

The LPTV operators and industry associations participating in this proceeding, like HSN, Inc., also urged the Commission to adopt its proposals to (1) take terrain and other appropriate engineering factors into account when determining interference created by LPTV stations to full-power television stations, 45/ and (2) permit displaced LPTV stations to file applications for suitable replacement channels in the same area without becoming subject to competing applications or filing windows. 46/ These measures will help promote the more

43/ See, e.g., Comments of the Community Broadcasters Association at 10; Comments of the National Translator Association at 3-4; Comments of Paging Systems, Inc. at 2; Comments of GEP, Inc. at 2; Comments of TV-67, Inc. at 1; Comments of KY New Era, Inc. at 6; Comments of Signal Sciences at 1.

44/ Comments of the Broadcasters at 34.

45/ See Comments of the Community Broadcasters Association at 13; Comments of Yoneide Dinzey at 5; Comments of TV-67, Inc. at 2; Comments of Telemundo at 21.

46/ See, e.g., Comments of the Community Broadcasters Association at 14; Comments of the National Translator Association at 4-5; Comments of KM Communications, Inc. at 8-9; Comments of Yoneide Dinzey at 5; Comments of Engle Broadcasting at 10.

efficient use of the spectrum and minimize the disruption to the ongoing operations of LPTV stations.

HSN, Inc. also supports the comments of the Community Broadcasters Association, and many others, urging the Commission to permit LPTV stations to co-locate with full-power DTV or NTSC facilities, while increasing transmitter output power levels to survive the co-location; relax UHF taboos; and implement other advanced techniques for avoiding interference or demonstrating a lack of interference. ^{47/} These measures will promote the more efficient use of the broadcast spectrum and will help to preserve LPTV service to some extent. However, for these measures to have a significant impact, the Commission must not prematurely constrict the spectrum available for LPTV operations.

V. The Commission Must Take Additional Steps To Assure Achievement Of The Service Replication Objective.

A primary objective of the Commission in developing a table of DTV allotments and assignments, including associated power levels, tower heights and other technical parameters, has been, and must continue to be, to replicate existing NTSC coverage. However, the power levels proposed by the Commission raise serious questions whether, upon conversion to DTV, NTSC UHF stations will, in fact, be able to replicate their existing coverage. The very significant power disparity proposed by the Commission for NTSC VHF stations utilizing UHF DTV

^{47/} See Comments of Community Broadcasters Association at 13; Comments of Telemundo at 21; Comments of Yoneide Dinzey at 5; Comments of TV-67, Inc. at 2.

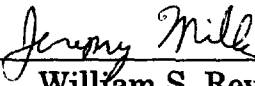
channels and NTSC UHF utilizing UHF DTV channels is likely to be exacerbated by the growing increase in indoor antenna reception, including the need for reception by computer devices. During the last few weeks, the industry has worked diligently to try to reach a consensus agreement regarding this problem. The Reply Comments of the Association of Local Television Stations being filed today reflect these concerns and consensus, and HSN, Inc. endorses and incorporates by reference those Reply Comments.

VI. Conclusion

As demonstrated by HSN, Inc. in its Comments, and confirmed by many of the comments submitted in this proceeding, the DTV Table proposed by the Commission would severely impair HSN, Inc.'s ability to compete in the video marketplace. In particular, the proposal for the early recovery of Channels 60-69 would have a uniquely unfair impact on HSN, Inc. in light of HSN, Inc.'s eight major market stations in the 60-69 band. Accordingly, the Commission should reject its proposal for the early recovery of Channels 60-69. In addition, it is imperative that the Commission confront the interference dilemma created by the allocation of Channel 21 in Vineland, New Jersey. The Commission also should adopt flexible procedures for the modification and maximization of NTSC and DTV facilities, and take actions to preserve LPTV service.

Respectfully submitted,

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January 24, 1997

CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of January, 1997, I caused to be served by hand delivery, copies of the foregoing Reply Comments of HSN, Inc., addressed to the following:

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